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MICROSOFT CORPORATION
8
9

10 **IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

11 MICROSOFT CORPORATION,

12 Plaintiff,

13 v.

14 JULIANNA PAK, an individual d/b/a
IBENEVOLO and IBENEVOLO.COM;
15 JULIANNA PAK, an individual; and MARK
PAK, an individual,
16

17 Defendants.

Case No.

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

18 **COMPLAINT**

19 Microsoft Corporation ("Microsoft") brings this action against Defendants Julianna
20 Pak, an individual doing business as ibenevolo and ibenevolo.com; Julianna Pak, an
21 individual; and Mark Pak, an individual (collectively "Defendants"), alleging that they
22 engaged in copyright and trademark infringement; false designation of origin, false
23 description and representation; and unfair competition. Microsoft seeks damages, an
24 accounting, the imposition of a constructive trust upon Defendants' illegal profits, and
25 injunctive relief.
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THE PARTIES

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2 1. Microsoft is a Washington corporation with its principal place of business
3 located in Redmond, Washington. Microsoft develops, markets, distributes and licenses
4 computer software.

5 2. Ibenevolo.com is an Internet website engaged in the business of advertising,
6 marketing, copying, offering, and/or distributing purported Microsoft software.

7
8 3. Upon information and belief, defendant Julianna Pak, an individual, does
9 business as, owns, operates, and/or otherwise controls ibenevolo and ibenevolo.com. Upon
10 information and belief, Julianna Pak transacts substantial business in this district. Upon
11 information and belief, Juliana Pak (a) personally participated in and/or (b) had the right and
12 ability to supervise, direct and control the wrongful conduct alleged in this Complaint, and (c)
13 derived direct financial benefit from that wrongful conduct. Upon information and belief,
14 Julianna Pak (a) has authority to bind ibenevolo.com in transactions, or (b) exercised joint
15 ownership or control over the infringing items alleged in this Complaint.
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17 4. Upon information and belief, defendant Mark Pak, an individual, did business
18 as, owned, operated, and/or otherwise controlled a website, BestWholesaleSoftware.com,
19 which was a predecessor to or has worked at relevant times with ibenevolo.com. Upon
20 information and belief, defendant Mark Pak transacts business in this district. Upon
21 information and belief, Mark Pak (a) personally participated in and/or (b) had the right and
22 ability to supervise, direct and control the wrongful conduct alleged in this Complaint, and (c)
23 derived direct financial benefit from that wrongful conduct. Upon information and belief,
24 Mark Pak exercised joint ownership or control over the infringing items alleged in this
25 Complaint.
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JURISDICTION

7. This Court has supplemental jurisdiction over Microsoft's claims arising under the laws of Nevada pursuant to 28 U.S.C. § 1367(a) because these claims are so related to Microsoft's claims under federal law that they form part of the same case or controversy and derive from a common nucleus of operative fact.

VENUE

FACTS COMMON TO ALL CLAIMS

9. Microsoft develops, advertises, markets, distributes, and licenses a number of computer software programs. Depending on the version, Microsoft's software programs are distributed recorded on discs, made available by Microsoft for download, or made available by Microsoft for pre-installation. Microsoft software programs are distributed together with associated proprietary materials such as user's guides, user's manuals, end user license agreements, Certificates of Authenticity, product keys and other components.

1 10. Microsoft Office 2010: Microsoft Office 2010 ("Office 2010") is a suite of
2 popular Microsoft software programs. Microsoft holds a valid copyright in Office 2010 that
3 was duly and properly registered with the United States Copyright Office. A true and correct
4 copy of the Registration Certificate for Microsoft Office 2010, bearing the number TX 7-151-
5 840, is attached hereto as Exhibit 1 and is incorporated by reference. Office Professional Plus
6 2010 includes the following popular Microsoft software programs:

7 A. Microsoft Excel 2010 is a program that allows users to create
8 spreadsheets, perform calculations, and store numerical data. Microsoft holds a valid
9 copyright in Microsoft Excel 2010 that was duly and properly registered with the United
10 States Copyright Office. A true and correct copy of the Copyright Registration Certificate for
11 Microsoft Excel 2010, bearing the number TX 7-218-085, is attached hereto as Exhibit 2 and
12 is incorporated by reference.
13

14 B. Microsoft Outlook 2010 is a program that allows users and networked
15 teams to create and manage calendars, tasks, and contacts. Microsoft holds a valid copyright
16 in Microsoft Outlook 2010 that was duly and properly registered with the United States
17 Copyright Office. A true and correct copy of the Copyright Registration Certificate for
18 Microsoft Outlook 2010, bearing the number TX 7-206-501, is attached hereto as Exhibit 3
19 and is incorporated by reference.
20

21 C. Microsoft PowerPoint 2010 is a program that allows users to create,
22 organize, and present overhead and slide presentations. Microsoft holds a valid copyright in
23 Microsoft PowerPoint 2010 that was duly and properly registered with the United States
24 Copyright Office. A true and correct copy of the Copyright Registration Certificate for
25 Microsoft PowerPoint 2010, bearing the number TX 7-219-973, is attached hereto as Exhibit
26 4 and is incorporated by reference.
27
28

1 D. Microsoft Word 2010 is a program that allows users to create and edit
2 reports and documents. Microsoft holds a valid copyright in Microsoft Word 2010 that was
3 duly and properly registered with the United States Copyright Office. A true and correct copy
4 of the Copyright Registration Certificate for Microsoft Word 2010, bearing the number TX 7-
5 206-498, is attached hereto as Exhibit 5 and is incorporated by reference.

6 E. Microsoft OneNote 2010 is a computer program that allows users to
7 organize text, pictures, digital handwriting, and notes in one spot so that they may be accessed
8 and shared. Microsoft holds a valid copyright in OneNote 2010 that was duly and properly
9 registered with the United States Copyright Office. A true and correct copy of the
10 Registration Certificate for Microsoft OneNote 2010, bearing the number TX 7-206-464, is
11 attached hereto as Exhibit 6 and is incorporated by reference.

12 F. Microsoft Publisher 2010 is a desktop publishing program that allows
13 users to create, customize, and publish materials such as newsletters, brochures, flyers,
14 catalogs, and websites. Microsoft holds a valid copyright in Microsoft Publisher 2010 that
15 was duly and properly registered with the United States Copyright Office. A true and correct
16 copy of the Copyright Registration Certificate for Microsoft Publisher 2010, bearing the
17 number TX 7-206-489, is attached hereto as Exhibit 7 and is incorporated by reference.

18 G. Microsoft Access 2010 is a program that allows users to create and
19 manipulate databases and store data. Microsoft holds a valid copyright in Microsoft Access
20 2010 that was duly and properly registered with the United States Copyright Office. A true
21 and correct copy of the Copyright Registration Certificate for Microsoft Access 2010, bearing
22 the number TX 7-206-461, is attached hereto as Exhibit 8 and is incorporated by reference.

23 H. Microsoft InfoPath 2010 is a computer program that allows users to
24 collect and manage data using electronic forms. The copyright in Microsoft's InfoPath 2010
25

1 was duly and properly registered with the United States Copyright Office. A true and correct
 2 copy of the Registration Certificate for Microsoft InfoPath 2010, bearing the number TX 7-
 3 206-468, is attached hereto as Exhibit 9 and is incorporated by reference.

4 I. Microsoft SharePoint Workspace 2010 is a computer program that
 5 allows users to access SharePoint content whether or not they are connected to the SharePoint
 6 server or working offline. The copyright in Microsoft's SharePoint Workspace was duly and
 7 properly registered with the United States Copyright Office. A true and correct copy of the
 8 Registration Certificate for Microsoft SharePoint Workspace 2010, bearing the number TX 7-
 9 206-481, is attached hereto as Exhibit 10 and is incorporated by reference.

11 11. Microsoft Office 2016: Microsoft Office 2016 ("Office 2016") is another suite
 12 of popular Microsoft software programs. Microsoft holds a valid copyright in Office 2016
 13 that was duly and properly registered with the United States Copyright Office. A true and
 14 correct copy of the Registration Certificate for Microsoft Office 2016, bearing the number TX
 15 8-097-602, is attached hereto as Exhibit 11 and is incorporated by reference.

17 12. Microsoft has also duly and properly registered a number of trademarks and a
 18 service mark in the United States Patent and Trademark Office on the Principal Register,
 19 including, but not limited to:

- 20 A. "ACCESS," Trademark Registration No. 3,238,869;
- 21 B. ACCESS LAUNCH ICON, Trademark Registration No. 3,905,556;
- 22 C. ACCESS LAUNCH ICON, Trademark Registration No. 4,365,955;
- 23 D. "EXCEL," Trademark Registration No. 2,942,050;
- 24 E. EXCEL LAUNCH ICON, Trademark Registration No. 3,905,558;
- 25 F. EXCEL LAUNCH ICON, Trademark Registration No. 4,355,451;
- 26 G. "INFOPATH," Trademark Registration No. 2,890,260;
- 27
- 28

- 1 H. INFOPATH LAUNCH ICON, Trademark Registration No. 3,905,557;
- 2 I. "MICROSOFT," Trademark and Service Mark Registration No.
- 3 1,200,236;
- 4 J. "MICROSOFT OFFICE," Trademark Registration No. 3,625,391;
- 5 K. OFFICE 2010 DESIGN, Trademark Registration No. 4,029,299;
- 6 L. OFFICE 2012 DESIGN WITH TEXT, Trademark Registration No.
- 7 4,456,462;
- 8 M. OFFICE 2012 DESIGN, Trademark Registration No. 4,459,826;
- 9 N. "ONENOTE," Trademark Registration No. 2,844,710;
- 10 O. ONENOTE LAUNCH ICON, Trademark Registration No. 3,905,559;
- 11 P. ONENOTE LAUNCH ICON, Trademark Registration No. 4,351,584;
- 12 Q. "OUTLOOK," Trademark Registration No. 2,188,125;
- 13 R. OUTLOOK LAUNCH ICON, Trademark Registration No. 3,905,560;
- 14 S. OUTLOOK LAUNCH ICON, Trademark Registration No. 4,355,446;
- 15 T. "POWERPOINT," Trademark Registration No. 1,475,795;
- 16 U. POWERPOINT LAUNCH ICON, Trademark Registration No.
- 17 3,905,561;
- 18 V. POWERPOINT LAUNCH ICON, Trademark Registration No.
- 19 4,385,388;
- 20 W. PUBLISHER LAUNCH ICON, Trademark Registration No.
- 21 3,909,142;
- 22 X. PUBLISHER LAUNCH ICON, Trademark Registration No.
- 23 4,355,448;
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Y. "SHAREPOINT," Trademark Registration No. 2,854,862, for computer programs;

Z. SHAREPOINT LAUNCH ICON, Trademark Registration No. 3,909,144;

AA. WORD LAUNCH ICON, Trademark Registration No. 3,909,143; and

BB. WORD LAUNCH ICON, Trademark Registration No. 4,355,444;

True and correct copies of the Trademark Registrations for A through BB above are attached hereto as Exhibits 12 through 39, respectively, and are incorporated by reference.

DEFENDANTS' INFRINGEMENT

13. On information and belief, Defendants advertised, marketed, copied, offered and/or distributed unauthorized copies of Microsoft software and/or components, despite having notice that their conduct infringed Microsoft's copyrights, trademarks and/or service mark.

14. On information and belief, Defendants indicate that that they distribute genuine Microsoft software, and in their advertisements, Defendants misappropriate and/or infringe Microsoft's copyrights, advertising ideas, style of doing business, slogans, trademarks and/or service mark. The Microsoft software sold by Defendants is actually infringing.

15. On information and belief, Defendants knew or should have known that they were distributing infringing copies of Microsoft software.

16. Nevertheless, in December 2015, Defendants made and/or distributed to an investigator via Internet download an unauthorized and infringing copy of Microsoft Office 2010 software.

1 17. In December 2015, Defendants also made and/or distributed to an investigator
2 via Internet download an unauthorized and infringing copy of Microsoft Office 2016
3 software.

4 18. On information and belief, these are not isolated incidents, and Defendants'
5 infringement is not limited to Office software. Rather, Defendants have been and continue to
6 be involved in advertising, marketing, copying, offering, and/or distributing counterfeit and
7 infringing copies of Microsoft's software and/or related components to other persons or
8 entities.

9
10 19. On information and belief, Defendants have committed and are continuing to
11 commit acts of copyright and trademark infringement against Microsoft. On information and
12 belief, at a minimum, Defendants were willfully blind and acted in reckless disregard of
13 Microsoft's registered copyrights, trademarks and service marks.

14
15 20. On information and belief, Microsoft has been harmed by Defendants'
16 activities, including their advertising activities and unauthorized use of Microsoft's copyright
17 protected material, and the unauthorized use of Microsoft's marks to describe the items that
18 Defendants are distributing.

19
20 **FIRST CLAIM**
21 **[Copyright Infringement – 17 U.S.C. § 501, et seq.]**
22 **Against Defendants**

23 21. Microsoft repeats and incorporates by this reference each and every allegation
24 set forth in paragraphs 1 through 20, inclusive.

25 22. Microsoft is the sole owner of Microsoft Office 2010, Excel 2010, Outlook
26 2010, PowerPoint 2010, Word 2010, Publisher 2010, Access 2010, OneNote 2010, InfoPath
27 2010, SharePoint Workspace 2010, and Office 2016, and of the corresponding copyrights and
28 Certificates of Registration.

1 23. Defendants have infringed the copyrights in Microsoft's software, including
2 but not limited to Microsoft Office 2010, Excel 2010, Outlook 2010, PowerPoint 2010, Word
3 2010, Publisher 2010, Access 2010, OneNote 2010, InfoPath 2010, SharePoint Workspace
4 2010, and Office 2016, by advertising, marketing, copying, offering, and/or distributing
5 infringing materials in the United States of America without approval or authorization from
6 Microsoft.

7
8 24. At a minimum, Defendants acted with willful blindness to and in reckless
9 disregard of Microsoft's registered copyrights.

10 25. Defendants (a) caused, induced, or materially contributed to unauthorized
11 copying in the United States of America of Microsoft software, including but not limited to
12 Microsoft Office 2010, Excel 2010, Outlook 2010, PowerPoint 2010, Word 2010, Publisher
13 2010, Access 2010, OneNote 2010, InfoPath 2010, SharePoint Workspace 2010, and Office
14 2016, and had reason to know about such copying and/or (b) had the right and ability to
15 supervise, direct and control such unauthorized copying and (c) derived direct financial
16 benefit from it.

17
18 26. As a result of their wrongful conduct, Defendants are liable to Microsoft for
19 copyright infringement. 17 U.S.C. § 501. Microsoft has suffered damages. Microsoft is
20 entitled to recover damages, which include any and all profits Defendants have made as a
21 result of their wrongful conduct. 17 U.S.C. § 504. Alternatively, Microsoft is entitled to
22 statutory damages under 17 U.S.C. § 504(c).

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24 27. In addition, for the reasons set forth above, the award of statutory damages
25 should be enhanced in accordance with 17 U.S.C. § 504(c)(2).

26 28. Microsoft is also entitled to injunctive relief pursuant to 17 U.S.C. § 502 and to
27 an order impounding any and all infringing materials pursuant to 17 U.S.C. § 503. Microsoft
28

1 has no adequate remedy at law for Defendants' wrongful conduct because, among other
 2 things, (a) Microsoft's copyrights are unique and valuable property which have no readily
 3 determinable market value, (b) Defendants' infringement harms Microsoft such that Microsoft
 4 could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and
 5 the resulting damage to Microsoft, is continuing.

6 29. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 17
 7 U.S.C. § 505.
 8

9 **SECOND CLAIM**
 10 **[Trademark Infringement – 15 U.S.C. § 1114]**
 11 **Against Defendants**

12 30. Microsoft repeats and incorporates by this reference each and every allegation
 13 set forth in paragraphs 1 through 29, inclusive.

14 31. Defendants' activities constitute infringement of Microsoft's federally
 15 registered trademarks and service mark in violation of the Lanham Trademark Act, including
 16 but not limited to 15 U.S.C. § 1114(1).

17 32. Because Microsoft advertises, markets, distributes, and licenses its software
 18 under the trademarks and service mark described in this Complaint, these trademarks and
 19 service mark are the means by which Microsoft's software is distinguished from the software
 20 and related items of others in the same or related fields.

21 33. Because of Microsoft's long, continuous, and exclusive use of these
 22 trademarks and service mark, they have come to mean, and are understood by customers, end
 23 users, and the public to signify, software programs or services of Microsoft.

24 34. The infringing materials that Defendants have and are continuing to advertise,
 25 market, copy, offer, and/or distribute are likely to cause confusion, mistake, or deception as to
 26 their source, origin, or authenticity.
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1 35. Further, Defendants' activities are likely to lead the public to conclude,
2 incorrectly, that the infringing materials that Defendants are advertising, marketing, copying,
3 offering, and/or distributing originate with or are authorized by Microsoft, to the damage and
4 harm of Microsoft, its licensees, and the public.

5 36. Upon information and belief, Defendants advertised, marketed, copied, offered
6 and/or distributed infringing material with the purpose of misleading or confusing customers
7 and the public as to the origin and authenticity of the infringing materials and of trading upon
8 Microsoft's business reputation.
9

10 37. At a minimum, Defendants acted with willful blindness to and in reckless
11 disregard of Microsoft's registered marks.

12 38. Defendants had reason to know about their infringement of Microsoft's
13 federally registered trademarks and service mark and caused, induced, or materially
14 contributed to it.
15

16 39. As a result of their wrongful conduct, Defendants are liable to Microsoft for
17 trademark infringement. 15 U.S.C. § 1114(1). Microsoft has suffered damages. Microsoft is
18 entitled to recover damages, which include any and all profits Defendants have made as a
19 result of their wrongful conduct. 15 U.S.C. § 1117(a).
20

21 40. In addition, because of Defendants' infringement of Microsoft's trademarks
22 and service mark as described above, the award of actual damages and profits should be
23 trebled pursuant to 15 U.S.C. § 1117(b). Alternatively, Microsoft is entitled to statutory
24 damages under 15 U.S.C. § 1117(c).

25 41. Microsoft is also entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a)
26 and to an order compelling the impounding of all infringing materials advertised, marketed,
27 copied, offered and/or distributed by Defendants pursuant to 15 U.S.C. § 1116, subsections
28

1 (a) and (d)(1)(A). Microsoft has no adequate remedy at law for Defendants' wrongful
2 conduct because, among other things, (a) Microsoft's trademarks and service mark are unique
3 and valuable property which have no readily determinable market value, (b) Defendants'
4 infringement constitutes harm to Microsoft's such that Microsoft could not be made whole by
5 any monetary award, (c) if Defendants' wrongful conduct is allowed to continue, the public is
6 likely to become further confused, mistaken, or deceived as to the source, origin or
7 authenticity of the infringing materials, and (d) Defendants' wrongful conduct, and the
8 resulting damage to Microsoft, is continuing.

10 42. Microsoft is also entitled to recover its attorneys' fees and costs of suit. 15
11 U.S.C. § 1117.

12 **THIRD CLAIM**
13 **[False Designation Of Origin, False Description And Representation –**
14 **15 U.S.C. § 1125 et seq.]**
15 **Against Defendants**

16 43. Microsoft repeats and incorporates by this reference each and every allegation
17 set forth in paragraphs 1 through 42, inclusive.

18 44. Because Microsoft advertises, markets, distributes, and licenses its software
19 under the trademarks and service mark described in this Complaint, these trademarks and
20 service mark are the means by which Microsoft's software is distinguished from the software
21 or products of others in the same field or related fields.

22 45. Because of Microsoft's long, continuous, and exclusive use of these
23 trademarks and service mark, they have come to mean, and are understood by customers, end
24 users, and the public to signify, software or services of Microsoft.

25 46. Microsoft has also designed distinctive and aesthetically pleasing displays,
26 logos, icons, graphic images, and packaging (collectively, "Microsoft visual designs") for its
27 software programs.
28

1 47. Defendants' wrongful conduct includes the use of Microsoft's marks, name,
2 and/or imitation visual designs, and specifically displays, logos, icons, graphic designs, and/or
3 packaging virtually indistinguishable from Microsoft visual designs, in connection with their
4 goods and services.

5 48. Upon information and belief, Defendants engaged in such wrongful conduct
6 with the purpose of misleading or confusing customers and the public as to the origin and
7 authenticity of the goods and services advertised, marketed, copied, offered and/or distributed
8 in connection with Microsoft's marks, name, and imitation visual designs, and of trading upon
9 Microsoft's goodwill and business reputation. Defendants' conduct constitutes (a) false
10 designation of origin, (b) false or misleading description, and (c) false or misleading
11 representation that the imitation visual images originate from or are authorized by Microsoft,
12 all in violation of § 43(a) of the Lanham Trademark Act, set forth at 15 U.S.C. § 1125(a).
13

14 49. Defendants' wrongful conduct is likely to continue unless restrained and
15 enjoined.
16

17 50. As a result of Defendants' wrongful conduct, Microsoft has suffered and will
18 continue to suffer damages. Microsoft is entitled to injunctive relief and to an order
19 compelling the impounding of all imitation marks and visual designs being used, advertised,
20 marketed, copied, offered and/or distributed by Defendants. Microsoft has no adequate
21 remedy at law for Defendants' wrongful conduct because, among other things, (a) Microsoft's
22 marks, name and visual designs are unique and valuable property which have no readily-
23 determinable market value, (b) Defendants' advertising, marketing, copying, and/or
24 distribution of imitation visual designs constitutes harm to Microsoft such that Microsoft
25 could not be made whole by any monetary award, and (c) Defendants' wrongful conduct, and
26 the resulting damage to Microsoft, are continuing.
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FOURTH CLAIM
[Nevada Common Law Unfair Competition and Unfair Trade Practices]
Against Defendants

51. Microsoft realleges, and incorporates by this reference, each and every allegation set forth in paragraphs 1 through 50 inclusive.

52. The acts and conduct of Defendants as alleged above in this complaint constitute unfair competition proscribed by the common law of the State of Nevada.

53. Defendants' acts and conduct are likely to confuse the public into believing that the items being offered or distributed by Defendants originate with, or are sponsored, approved or authorized by Microsoft in violation of Microsoft's rights under the common law of unfair competition of the State of Nevada.

54. Defendants' conduct as alleged above has damaged Microsoft and resulted in an illicit gain of profit to Defendants in an amount that is unknown at the present time.

FIFTH CLAIM
[For Imposition Of A Constructive Trust Upon Illegal Profits]
Against Defendants

55. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 54, inclusive.

56. Defendants' conduct constitutes deceptive and wrongful conduct in the nature of passing off the infringing materials as genuine Microsoft software or related components approved or authorized by Microsoft.

57. By virtue of Defendants' wrongful conduct, Defendants have illegally received money and profits that rightfully belong to Microsoft.

58. Upon information and belief, Defendants hold the illegally received money and profits in the form of bank accounts, real property, or personal property that can be located and traced.

59. Defendants hold the money and profits they have illegally received as constructive trustees for the benefit of Microsoft.

SIXTH CLAIM
[Accounting]
Against Defendants

60. Microsoft repeats and incorporates by this reference each and every allegation set forth in paragraphs 1 through 59, inclusive.

61. Microsoft is entitled, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117, to recover any and all profits of Defendants that are attributable to their acts of infringement.

62. Microsoft is entitled, pursuant to 17 U.S.C. § 504 and 15 U.S.C. § 1117, to actual damages or statutory damages sustained by virtue of Defendants' acts of infringement.

63. The amount of money due from Defendants to Microsoft is unknown to Microsoft and cannot be ascertained without a detailed accounting by Defendants of the precise number of units of infringing material advertised, marketed, copied, offered and/or distributed by Defendants.

PRAYER FOR RELIEF

WHEREFORE, Microsoft respectfully requests judgment as follows:

(1) That the Court enter a judgment against Defendants as indicated below:

(a) that Defendants have willfully infringed Microsoft's rights in the following federally registered copyrights, in violation of 17 U.S.C. § 501:

(1) TX 7-151-840 ("Office 2010");

(2) TX 7-218-085 ("Excel 2010");

(3) TX 7-206-501 ("Outlook 2010");

(4) TX 7-219-973 ("PowerPoint 2010");

(5) TX 7-206-498 ("Word 2010");

- (6) TX 7-206-489 ("Publisher 2010");
- (7) TX 7-206-461 ("Access 2010");
- (8) TX 7-206-464("OneNote 2010");
- (9) TX 7-206-468 ("InfoPath 2010");
- (10) TX 7-206-481 ("SharePoint Workspace 2010"); and
- (11) TX 8-097-602 (Office 2016);

(b) that Defendants have willfully infringed Microsoft's rights in the following federally registered trademarks and service mark, in violation of 15 U.S.C. § 1114:

- (1) 3,238,869 ("ACCESS");
- (2) 3,905,556 (ACCESS LAUNCH ICON);
- (3) 4,365,955 (ACCESS LAUNCH ICON);
- (4) 2,942,050 ("EXCEL");
- (5) 3,905,558 (EXCEL LAUNCH ICON);
- (6) 4,355,451 (EXCEL LAUNCH ICON);
- (7) 2,890,260 ("INFOPATH");
- (8) 3,905,557 (INFOPATH LAUNCH ICON);
- (9) 1,200,236 ("MICROSOFT");
- (10) 3,625,391 ("MICROSOFT OFFICE");
- (11) 4,029,299 (OFFICE 2010 DESIGN);
- (12) 4,456,462 (OFFICE 2012 DESIGN WITH TITLE);
- (13) 4,459,826 (OFFICE 2012 DESIGN);
- (14) 2,844,710 ("ONENOTE");
- (15) 3,905,559 (ONENOTE LAUNCH ICON);
- (16) 4,351,584 (ONENOTE LAUNCH ICON);

- (17) 2,188,125 ("OUTLOOK");
- (18) 3,905,560 (OUTLOOK LAUNCH ICON);
- (19) 4,355,446 (OUTLOOK LAUNCH ICON);
- (20) 1,475,795 ("POWERPOINT");
- (21) 3,905,561 (POWERPOINT LAUNCH ICON);
- (22) 4,385,388 (POWERPOINT LAUNCH ICON);
- (23) 3,909,142 (PUBLISHER LAUNCH ICON);
- (24) 4,355,448 (PUBLISHER LAUNCH ICON);
- (25) 2,854,862 ("SHAREPOINT");
- (26) 3,909,144 (SHAREPOINT LAUNCH ICON);
- (27) 3,909,143 (WORD LAUNCH ICON); and
- (28) 4,355,444 (WORD LAUNCH ICON);

(c) that Defendants have committed and are committing acts of false designation of origin, false or misleading description of fact, and false or misleading representation against Microsoft, in violation of 15 U.S.C. § 1125(a);

(d) that Defendants have engaged in unfair competition in violation of Nevada common law; and

(e) that Defendants have otherwise injured the business reputation and business of Microsoft by the acts and conduct set forth in this Complaint.

(2) That the Court issue injunctive relief against Defendants, and that Defendants, their directors, principals, officers, agents, representatives, servants, employees, attorneys, successors and assigns, and all others in active concert or participation with Defendants, be enjoined and restrained from:

1 (a) imitating, copying, or making any other infringing use or infringing
2 distribution of the software programs, components, end user license agreements ("EULA"),
3 Certificates of Authenticity ("COAs") and/or items protected by the following copyright
4 Certificate Registration Nos.:

- 5 (1) TX 7-151-840 ("Office 2010");
6 (2) TX 7-218-085 ("Excel 2010");
7 (3) TX 7-206-501 ("Outlook 2010");
8 (4) TX 7-219-973 ("PowerPoint 2010");
9 (5) TX 7-206-498 ("Word 2010");
10 (6) TX 7-206-489 ("Publisher 2010");
11 (7) TX 7-206-461 ("Access 2010");
12 (8) TX 7-206-464 ("OneNote 2010");
13 (9) TX 7-206-468 ("InfoPath 2010");
14 (10) TX 7-206-481 ("SharePoint Workspace 2010"); and
15 (11) TX 8-097-602 (Office 2016);

16 or the software programs, components and/or items protected by Microsoft's
17 registered trademarks and service mark, including, but not limited to, the following
18 Trademark Registration Nos.:

- 19 (1) 3,238,869 ("ACCESS");
20 (2) 3,905,556 (ACCESS LAUNCH ICON);
21 (3) 4,365,955 (ACCESS LAUNCH ICON);
22 (4) 2,942,050 ("EXCEL");
23 (5) 3,905,558 (EXCEL LAUNCH ICON);
24 (6) 4,355,451 (EXCEL LAUNCH ICON);
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- (7) 2,890,260 ("INFOPATH");
- (8) 3,905,557 (INFOPATH LAUNCH ICON);
- (9) 1,200,236 ("MICROSOFT");
- (10) 3,625,391 ("MICROSOFT OFFICE");
- (11) 4,029,299 (OFFICE 2010 DESIGN);
- (12) 4,456,462 (OFFICE 2012 DESIGN WITH TITLE);
- (13) 4,459,826 (OFFICE 2012 DESIGN);
- (14) 2,844,710 ("ONENOTE");
- (15) 3,905,559 (ONENOTE LAUNCH ICON);
- (16) 4,351,584 (ONENOTE LAUNCH ICON);
- (17) 2,188,125 ("OUTLOOK");
- (18) 3,905,560 (OUTLOOK LAUNCH ICON);
- (19) 4,355,446 (OUTLOOK LAUNCH ICON);
- (20) 1,475,795 ("POWERPOINT");
- (21) 3,905,561 (POWERPOINT LAUNCH ICON);
- (22) 4,385,388 (POWERPOINT LAUNCH ICON);
- (23) 3,909,142 (PUBLISHER LAUNCH ICON);
- (24) 4,355,448 (PUBLISHER LAUNCH ICON);
- (25) 2,854,862 ("SHAREPOINT");
- (26) 3,909,144 (SHAREPOINT LAUNCH ICON);
- (27) 3,909,143 (WORD LAUNCH ICON); and
- (28) 4,355,444 (WORD LAUNCH ICON);

and any other items or works now or hereafter protected by any Microsoft copyright,
trademark or service mark;

1 (b) manufacturing, assembling, producing, distributing, offering for
2 distribution, circulating, selling, offering for sale, advertising, importing, promoting, or
3 displaying any software program, component, EULA, COA and/or item bearing any
4 simulation, reproduction, counterfeit, copy, or colorable imitation of any of Microsoft's
5 registered trademarks, service mark, or copyrights, including, but not limited to, the
6 Trademark, Service Mark, and Copyright Registration Numbers listed in Sections (2)(a)
7 above;

9 (c) using any simulation, reproduction, counterfeit, copy, or colorable
10 imitation of Microsoft's registered trademarks, service mark, or copyright including, but not
11 limited to the Trademark, Service Mark, and Copyright Registration Numbers listed in
12 Section (2)(a) above, in connection with the manufacture, assembly, production, distribution,
13 offering for distribution, circulation, sale, offering for sale, import, advertisement, promotion,
14 or display of any software program, component, EULA, COA, and/or item not authorized or
15 licensed by Microsoft;

17 (d) using any false designation of origin or false or misleading description
18 or false or misleading representation that can or is likely to lead the trade or public or
19 individuals erroneously to believe that any software program, component, and/or item has
20 been manufactured, assembled, produced, distributed, offered for distribution, circulation,
21 sold, offered for sale, imported, advertised, promoted, displayed, licensed, sponsored,
22 approved, or authorized by or for Microsoft, when such is not true in fact;

24 (e) engaging in any other activity constituting an infringement of any of
25 Microsoft's trademarks, service mark and/or copyrights, or of Microsoft's rights in, or right to
26 use or to exploit, these trademarks, service mark, and/or copyrights; and
27
28

1 (f) assisting, aiding, or abetting any other person or business entity in
2 engaging in or performing any of the activities referred to in subparagraphs (a) through (e)
3 above.

4 (3) That the Court enter an order pursuant to 15 U.S.C. § 1116(a)(d)(1)(A) and 17
5 U.S.C. § 503 impounding all counterfeit and infringing copies of purported Microsoft
6 software and/or materials bearing any of Microsoft's trademarks or service mark, and any
7 related item, including business records, that is in Defendants' possession or under their
8 control;
9

10 (4) That the Court enter an order that Defendants' websites be disabled by the
11 appropriate domain name registries and/or the registrars holding or listing the domain names
12 of the websites;
13

14 (5) That the Court enter an order declaring that Defendants hold in trust, as
15 constructive trustees for the benefit of Microsoft, their illegal profits obtained from their
16 distribution of counterfeit and infringing copies of Microsoft's software, and requiring
17 Defendants to provide Microsoft a full and complete accounting of all amounts due and owing
18 to Microsoft as a result of Defendants' illegal activities.

19 (6) That the Court order Defendants to pay Microsoft's general, special, actual,
20 and statutory damages as follows:
21

22 (a) Microsoft's damages and Defendants' profits pursuant to 17 U.S.C. §
23 504(b), or alternatively, enhanced statutory damages pursuant to 17 U.S.C. § 504(c), and 17
24 U.S.C. § 504(c)(2);

25 (b) Microsoft's damages and Defendants' profits pursuant to 15 U.S.C. §
26 1117(a), trebled pursuant to 15 U.S.C. § 1117(b), or in the alternative, statutory damages
27 pursuant to 15 U.S.C. § 1117(c) for each counterfeit mark; and
28

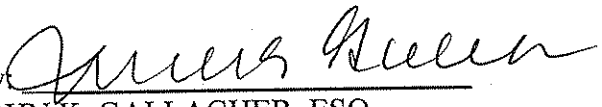
1 (c) Microsoft's damages and Defendants' profits pursuant to Nevada
2 common law.

3 (7) That the Court order Defendants to pay to Microsoft both the costs of this
4 action and the reasonable attorneys' fees incurred by it in prosecuting this action; and

5 (8) That the Court grant to Microsoft such other and additional relief as is just and
6 proper.
7

8 DATED March 2, 2016.

9
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